

# HOUSE . . . . . No. 4819

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## The Commonwealth of Massachusetts

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By Mr. Finegold of Andover, for the committee on Telecommunications, Utilities and Energy, on House, No. 1887, a Bill relating to the Pioneer Valley Energy Center (House, No. 4819). June 28, 2010.

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FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
Barry R. Finegold	17th Essex

# The Commonwealth of Massachusetts

In the Year Two Thousand and Ten

## An Act RELATING TO THE PIONEER VALLEY ENERGY CENTER.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. "PVEC" as used in this act shall mean the land, facilities, and equipment of the regional electric generating project in Westfield, Massachusetts known as the Pioneer Valley Energy Center.

"MLPs" as used in this act shall mean municipal lighting plants, municipal lighting plant cooperatives and municipal electric departments, each whether a domestic electric utility or a foreign electric utility as defined in chapter 164A, section 1 of the General Laws, including, but not limited to, municipal lighting plants and municipal electric departments of Westfield, Chicopee, Holyoke and South Hadley and the Western Massachusetts Public Utilities Cooperative.

"MLP Ownership Interests" as used in this act shall mean fractional tenancy-in-common ownership interests in the fee or leasehold of PVEC (including, but not limited to, the facilities and equipment comprising the PVEC generating facility) held by MLPs.

SECTION 2. Notwithstanding the provisions of sections 34 to 69S, inclusive, of chapter 164 of the General Laws or of section 3 of chapter 40 of the General Laws, and notwithstanding the provisions of any general or special law to the contrary:

- (a) One or more MLPs may (i) acquire MLP Ownership Interests in a portion, but less than all, of PVEC and/or (ii) contract to purchase all or a portion of the capacity and output of

PVEC including, without limiting the generality of the foregoing, contracts providing for planning, engineering, design, acquiring sites or options for sites and expenses preliminary or incidental to PVEC, and contracts to purchase all or a portion of the capacity and output of PVEC attributable to one or more MLP Ownership Interests; and (b) Any such contract (i) may be for the life of the PVEC generating facility or other term or for an indefinite period, (ii) may provide for the payment of unconditional obligations imposed without regard to whether the PVEC generating facility is undertaken, completed, operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of such facility and (iii) may contain provisions for prepayment, non-unanimous amendment, arbitration, delegation and other matters deemed necessary or advisable to carry out its purposes. Any such contract may also provide, in the event of default by any party thereto in the performance of its obligations thereunder, for other parties to assume or otherwise satisfy the obligations and succeed to the rights and interests of the defaulting party, pro rata or otherwise as may be agreed upon in the contract.

SECTION 3. The acquisition of MLP Ownership Interests in a portion, but less than all, of PVEC by MLPs shall not deem PVEC or any MLP Ownership Interests therein a public corporation, body politic and corporate or any other public instrumentality.

SECTION 4. Sections 38A1/2 to 38O, inclusive, of chapter 7 of the General Laws, section 20A of chapter 9 of the General Laws, sections 39A to 39S, inclusive, of chapter 30 of the General Laws, sections 25 to 44J, inclusive, of chapter 149 of the General Laws, chapter 149A of the General Laws, and regulations promulgated under these sections of the General Laws, or any other provision of any general or special law governing the procurement by MLPs of construction and design services shall not apply to the design, construction, operation or maintenance of PVEC or any of the MLP Ownership Interests therein.

SECTION 5. Notwithstanding the provisions of sections 14, 17A, 75, 87, 88, 90 and 91 of chapter 164 of the General Laws and the provisions of sections 11 to 22, inclusive of chapter 164A of the General Laws, and notwithstanding the provisions of any general or special law to the contrary, one or more MLPs may issue revenue bonds for the financing of their acquisition of

MLP Ownership Interests under chapter 164A of the General Laws, with PVEC being hereby deemed and construed to be an “electric power facility” for all purposes under chapter 164A of the General Laws. Said revenue bonds shall be supported solely by revenues attributable to, or derived directly or indirectly from, the MLP Ownership Interests.

SECTION 6. The provisions of this Act shall be deemed and construed to be supplemental and additional to, and not in derogation of, powers conferred upon MLPs, cities and towns and others by law (including, but not limited to, an MLP’s, city’s or town’s powers to incur debt, through issuance of bonds or notes or otherwise, pursuant to chapters 44 and 164 of the General Laws, and, with respect to any MLP that is a municipal lighting plant cooperative, by section 47C of chapter 164 of the General Laws or any other applicable general or special law), provided that the territorial limitations of sections 34 and 40 of chapter 164 of the General Laws shall not apply to any city or town acquiring an MLP Ownership Interest or incurring debt, through issuance of bonds or notes or otherwise, to finance such acquisition.

SECTION 7. This act shall take effect upon its passage.